**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL**

**Writ Petition No. 6449 of 2001 (S/S)**
**(Old No. 6777 of 1992)**

1. Madan Lal
   S/o Shri Kishan Lal
2. Raju
   S/o Shri Chote
3. Vijay
   S/o Shri Mangate
4. Shayam
   S/o Shri Ram Bharose & Ors. ……..Petitioners

**Versus**

1. State of U.P. through Secretary Local bodies and Urban Development, U.P. Civil Secretariat Lucknow.
2. Director, Local Bodies/Urban Development Indira Bhanwan- Lucknow
3. Divisional Officer, Nagar Palika Parishad Kashipur, Distt.- Udham Singh Nagar & Ors.

……..Respondents

**ALONGWITH**

**Writ Petition No. 6451 of 2001 (S/S)**

1. Ramesh, S/o Shri Munna
2. Mukesh, S/o Shri Mahesh
3. Umesh, S/o Shri Ram Swaroop & Ors. ….Petitioners

**Versus**

1. State of U.P. through Secretary Local bodies and Urban Development, U.P. Civil Secretariat Lucknow.
2. Director, Local Bodies/Urban Development Indira Bhanwan- Lucknow
3. Divisional Officer, Nagar Palika Parishad Kashipur, Distt.- Udham Singh Nagar.

……..Respondents

**Writ Petition No. 6448 of 2001 (S/S)**

1. Dinesh, S/o Shri Munna
2. Vinay, S/o Shri Ramesh

3. Smt. Meena Devi,
W/o Madan Lal & Ors. ……Petitioners

**Versus**

1. State of U.P. through Secretary Local bodies and Urban Development, U.P. Civil Secretariat Lucknow.
2. Director, Local Bodies/Urban Development Indira Bhanwan- Lucknow
3. Divisional Officer, Nagar Palika Parishad Kashipur, Distt.- Udham Singh Nagar.

……..Respondents

**AND**

**Writ Petition No. 6650 of 2001 (S/S)**

1. Ram Kumar, S/o Shri Ram Krishna
2. Mukesh Kumar, S/o Shri Mahesh
3. Smt. Meena Devi,
W/o Madan Lal & Ors. ……Petitioners

**Versus**

1. State of U.P. through Secretary Local bodies and Urban Development, U.P. Civil Secretariat Lucknow.
2. Director, Local Bodies/Urban Development Indira Bhanwan- Lucknow
3. Divisional Officer, Nagar Palika Parishad Kashipur, Distt.- Udham Singh Nagar & Ors.

……..Respondents

Shri D.S. Patni, Shri A.K. Joshi, Shri M.S. Pal, K.S. Rautela learned Counsel, for the Petitioners,
Shri Pradeep Lohani, Shri Bhupendra Singh, learned Standing Counsel for the respondents.

**Hon'ble Prafulla C. Pant, J.**

All the above four writ petitions, involved similar question as to the continuance of petitioners in service and are being taken up together for their disposal.

2. Petitioners in all the above four writ petitions, were working as sweepers on daily wages. They were engaged in the year 1988-89, by Nagar Palika. The petitioners have challenged the order dated 13.06.1992 (Annexure-1 to the writ petition), passed by Chairman, Nagar Palika, Kashipur, whereby services of all the workers, engaged on daily wages, were terminated. Said order, appears to have been passed in pursuance to show cause notice dated 06.06.1992, issued by Government to Chairman, Nagar Palika, Kashipur, as to why he should not be removed from the said post for engaging persons on daily wages, against the rules. Petitioners have relied the Government Order dated 25.10.1989 (copy Annexure-6 to the writ petition No. 6649 of 2001 S/S) and 08.01.1992 (copy Annexure- 5 to the writ petition). In aforesaid writ petitions, the government has directed to regularize the service of those daily wage employees who have completed more than three years and in a single year they had worked for more than 240 days. The Government Order dated. 08.06.1992, further directs that the daily wage workers, engaged prior to 11.10.1989, shall not be disengaged.

3. In the counter affidavit, filed on behalf of respondent-Nagar Palika, it is stated in its Para 4 that the said Government Order dated 08.06.1992, (copy Annexure-5 to the writ petition), provided that those daily wagers, who are working since before 11.10.1989, shall not be disengaged.

4. I heard learned Counsel for the parties and perused the record.

5. Learned Counsel for the petitioners argued that most of the petitioners are still continuing in the service on daily wages. Undoubtly, unless the posts are sanctioned, no

regularization of the employees can be done. It is also clear that persons are engaged on daily wage basis only according to the requirement of the work.

6. Learned Counsel of the petitioners, argued that, in view of continuance in service, the petitioners are entitled to regularization. However, this Court feels that the regularization can only be directed, subject to the condition that the posts are sanctioned by the government. Learned Standing Counsel for the Nagar Palika submits that by Government Order dated 25.09.2004, the Government of Uttaranchal, has lifted the ban on recruitment of sweepers. Learned Counsel further brought to the notice of the Court that there are some twenty vacant posts, which are required to be filled and Nagar Palika is ready to accommodate those petitioners, who are entitled to same according to their seniority, in terms of the Government Order. In view of said statement, as to the regularization of the petitioners, it is directed that their cases for regularization may be considered expeditiously according to the seniority of the daily wage workers (provided they are still working on daily wages), subject to availability of the vacant post. All the four writ petitions are accordingly disposed of.

**(Prafulla C. Pant, J.)**

Dt: 12th July, 2005
Sweta